

WC 07-254

DATE STAMP AND RETURN

BINGHAM

LEGAL INSIGHT. BUSINESS INSTINCT.

Harry N. Malone  
Phone: 202.373.6000  
Fax: 202.373.6001  
harry.malone@bingham.com

2007 OCT 29 A 11:49

RECEIVED

FILED/ACCEPTED

OCT 10 2007

Federal Communications Commission  
Office of the Secretary

October 10, 2007

Via Courier

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
c/o Natek, Inc., Inc.  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

Re: East Tennessee Network, LLC Section 63.71 Application

Dear Ms. Dortch:

On behalf of East Tennessee Network, LLC, enclosed please find an original and four (4) copies of the above-referenced Application. Please date-stamp and return the extra copy. Please feel free to contact us if you have any questions regarding this matter.

Respectfully submitted,

*Harry N. Malone / JLB*

Jean L. Kiddoo  
Harry N. Malone

cc: Duane Uhls

Boston  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
Walnut Creek  
Washington

Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC  
20006-1806

T 202.373.6000  
F 202.373.6001  
bingham.com

A/72246924.1

In the Matter of )  
 )  
Section 63.71 Application of )  
 )  
**East Tennessee Network, LLC** )  
 )  
For Authority to Discontinue )  
Certain Services )

East Tennessee Network, LLC d/b/a XTN (“XTN”), through its undersigned counsel, hereby files this Application to discontinue services pursuant to Section 63.71 of the Commission’s rules, 47 C.F.R. § 63.71, in selected areas defined herein. Specifically, XTN is seeking to discontinue the provision of local, interexchange and DSL services to customers in Tennessee and Virginia. In support of this Application, XTN submits the following information:

East Tennessee Network, LLC  
125 W. Summer Street  
Greeneville, Tennessee 37744-1387

Duane Uhls  
Vice President  
East Tennessee Network, LLC  
125 W. Summer Street  
Greeneville, Tennessee 37744-1387  
Tel: (423) 798-0187  
Fax: (423) 638-6273  
Email: [duhls@xtn.net](mailto:duhls@xtn.net)

The anticipated date for the discontinuance of service, as described below in paragraph 3, is December 10, 2007 in Virginia and January 10, 2008 in Tennessee or as soon thereafter as the necessary state and federal regulatory authorizations have been obtained.

**3. Points of geographic areas of service affected**

XTN seeks authority to discontinue its local, interexchange and DSL services to customers in Tennessee and Virginia.

**4. Brief description of the type of service affected**

As discussed above, XTN proposes to discontinue the provision of local, interexchange and DSL services to customers Tennessee and Virginia.

**5. Brief description of the dates and methods of notice to all affected customers**

Written notice to all affected customers in Tennessee and Virginia in the form of the sample letters attached as Exhibit A was mailed to customers on October 5, 2007. The customer notice letters were prepared in accordance with the respective state commission rules and the requirements of Section 63.71(a) of the Commission's Rules.

**6. Non-dominance of the carrier with respect to the service to be discontinued**

XTN is non-dominant with respect to the services that it proposes to discontinue.

**7. Service**

In accordance with Section 63.71(a) of the Commission's rules, XTN has mailed a copy of this application to the Governor and the public utility commission of each of the states listed above in paragraph 3 and to the Special Assistant for Telecommunications for the Secretary of Defense.

**8. Additional questions regarding this application may be addressed to:**

Jean L. Kiddoo  
Harry N. Malone  
Bingham McCutchen LLP  
2020 K Street, NW  
Washington, D.C. 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001  
Email: harry.malone@bingham.com

**II. Circumstances of Discontinuance**

As part of XTN's plan to refocus its business plan in order to maintain long term profitability, XTN has determined to discontinue the provision of all telecommunications services in Tennessee and Virginia.

### **III. Conclusion**

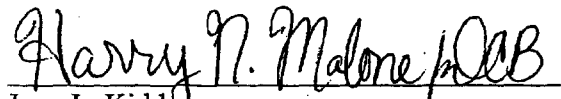
XTN's disconnection of service to its customers, while regrettable, is necessary and appropriate, and will not adversely affect the public convenience and necessity. The public will not be unduly harmed by the discontinuance of the services described above because customers have been given notice that affords them an opportunity to select a new carrier. As indicated herein, XTN has undertaken a customer notification initiative in Tennessee and Virginia that is aimed at providing all affected customers with sufficient notice and opportunity to select another telecommunications provider.

For the foregoing reasons, XTN respectfully requests, pursuant to Section 63.71 of the Commission's Rules, that the Commission permit it to discontinue the provision of services to certain customers in Tennessee and Virginia pursuant to Section 63.71.

Respectfully submitted,

**East Tennessee Network, LLC**

By:

A handwritten signature in dark ink, appearing to read "Harry N. Malone" followed by a stylized monogram or initials.

Jean L. Kiddoo

Harry N. Malone

Bingham McCutchen LLP

2020 K Street, N.W.

Washington, D.C. 20006

Tel: (202) 373-6000

Fax: (202) 373-6001

Email: [harry.malone@bingham.com](mailto:harry.malone@bingham.com)

Dated: October 10, 2007

## **Exhibit A**

### **Sample Discontinuance Notice Letters**

**NOTICE OF COMMUNICATION SERVICES DISCONTINUANCE**

**DO NOT DISREGARD THIS NOTICE**

**YOU MUST CHOOSE A NEW TELECOMMUNICATIONS SERVICE**

**PROVIDER BY NOVEMBER 10, 2007**



123 W. Summer Street  
Greeneville, TN 37743  
888-323-1142

October 5, 2007

«CUSTOMER\_NAME»  
Attn: «Contact\_Name»  
«ADDRESS»  
«CITY», «STATE» «ZIP»

RE: Discontinuance of Telecommunications Services provided by East Tennessee Network, LLC

Dear XTN Customer:

We regret to inform you that East Tennessee Network, LLC ("XTN") will no longer be able to provide your telecommunications services in Virginia. **Accordingly, XTN will discontinue its voice and data services, including any local, long distance and DSL Internet services that you may receive. Subject to the necessary state and federal regulatory approvals, the anticipated date for the discontinuance of XTN's service is November 10, 2007.**

**YOUR IMMEDIATE ACTION IS REQUIRED! YOU MUST SELECT A NEW TELECOMMUNICATIONS SERVICE PROVIDER AS QUICKLY AS POSSIBLE BUT NO LATER THAN NOVEMBER 10, 2007 OR YOU MAY LOSE TELECOMMUNICATIONS SERVICES, INCLUDING LOCAL DIALTONE SERVICE.**

**You must elect a new service provider as soon as possible to avoid any interruption of service.** Please do not delay in arranging for a new service provider, as some providers may require several weeks to install or connect new services. To help avoid service disruption, please check carefully that all affected voice and data service types you currently have with XTN are moved to your new service provider. Once you have chosen and contacted your new provider, XTN will coordinate with the provider you have selected to assist in the transition of your service. Generally, you can find a list of most local telephone service providers in your local telephone directory. Other types of service providers may also be in your local telephone directory. After selecting a new local telephone service provider, you should also contact your

current long distance service provider, to ensure that your current long distance calling plan is not changed as a result of your change in your local service.

Please be aware that you are responsible for paying all bills rendered for services provided to you by XTN up to and including those provided during the transition. You may be subject to suspension or termination of your phone service in accordance with the Virginia State Corporation Commission's rules if you fail to pay your telephone bills. Any deposits or credits associated with your account will be applied to your final bill, with any remaining balance returned to you. Any switchover fees (excluding non-recurring charges such as service connection charges, etc.) you incur to migrate your account to another telecommunications service provider will be reimbursed by XTN.

For further information regarding the Virginia State Corporation Commission's rules relating to competitive local exchange carrier certification and regulation, or to obtain information regarding other local carriers operating in the state of Tennessee, please contact:

Virginia State Corporation Commission  
Tyler Building  
1300 East Main Street  
Richmond, VA 23219  
[www.state.va.us/scc](http://www.state.va.us/scc)

The Federal Communications Commission ("FCC") permits customers to object to discontinuance of their service by a telecommunications provider. As provided in the FCC's rule 47 CFR 63.71:

*The FCC will normally authorize this proposed discontinuance of service unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, D.C. 20554, referencing the Section 63.71 Application of East Tennessee Network, LLC. Your comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.*

XTN has truly enjoyed serving you, and we apologize for any inconvenience caused by our departure from voice and data services. We sincerely hope that your transition is smooth to another telecommunications provider who will meet all your needs.

If you have additional questions about our discontinuing services, please contact us toll-free at 1-888-323-1142. Thank you for using XTN services.

Sincerely,

Duane Uhls  
Chief Operating Officer  
East Tennessee Network, LLC

## NOTICE OF COMMUNICATION SERVICES DISCONTINUANCE

**DO NOT DISREGARD THIS NOTICE**  
**YOU MUST CHOOSE A NEW TELECOMMUNICATIONS SERVICE**  
**PROVIDER BY JANUARY 10, 2008**



123 W. Summer Street  
Greeneville, TN 37743  
888-323-1142

October 5, 2007

«CUSTOMER\_NAME»  
Attn: «Contact\_Name»  
«ADDRESS»  
«CITY», «STATE» «ZIP»

RE: Discontinuance of Telecommunications Services provided by East Tennessee Network, LLC

Dear XTN Customer:

We regret to inform you that East Tennessee Network, LLC ("XTN") will no longer be able to provide your telecommunications services in Tennessee. **Accordingly, XTN will discontinue its voice and data services, including any local, long distance and DSL Internet services that you may receive. Subject to the necessary state and federal regulatory approvals, the anticipated date for the discontinuance of XTN's service is January 10, 2008.**

**YOUR IMMEDIATE ACTION IS REQUIRED! YOU MUST SELECT A NEW TELECOMMUNICATIONS SERVICE PROVIDER AS QUICKLY AS POSSIBLE BUT NO LATER THAN JANUARY 10, 2008 OR YOU MAY LOSE TELECOMMUNICATIONS SERVICES, INCLUDING LOCAL DIALTONE SERVICE.**

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For further information regarding the Tennessee Regulatory Authority's rules relating to competitive local exchange carrier certification and regulation, or to obtain information regarding other local carriers operating in the state of Tennessee, please contact:

Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505  
(615) 741-2904  
[www.state.tn.us/tra](http://www.state.tn.us/tra)

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If you have additional questions about our discontinuing services, please contact us toll-free at 1-888-323-1142. Thank you for using XTN services.

Sincerely,

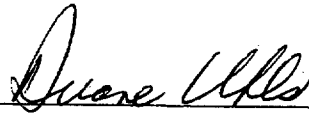
Duane Uhls  
Chief Operating Officer  
East Tennessee Network, LLC

**CERTIFICATION OF APPLICANT**

On behalf of East Tennessee Network, LLC, I hereby certify that the statements in the foregoing Application for Section 63.71 authority are true, complete, and correct to the best of my knowledge and are made in good faith.

*East Tennessee Network, LLC*

By:



Name:

Duane Uhls

Title:

Chief Operating Officer

Date:

October 9, 2007

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Section 63.71 Application of East Tennessee Network, LLC was served this 10th day of October 2007, by mailing true and correct copies thereof, postage prepaid, to the following persons at the addresses appearing on the attached list.

Secretary of Defense  
Attn: Special Asst. for Telecommunications  
The Pentagon  
Washington, D.C. 20301

Joel H. Peck, Clerk  
Virginia State Corporation Commission  
Tyler Building  
1300 East Main Street  
Richmond, VA 23219

Governor Tim Kaine  
Office of the Governor  
Patrick Henry Building, 3rd Floor  
1111 East Broad Street  
Richmond, Virginia 23219

Sharla Dillon  
Docket and Records Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Governor Phil Bredesen  
Governor's Office  
Tennessee State Capitol  
Nashville, TN 37243-0001

  
\_\_\_\_\_  
Danielle Burt